

APPEAL NO. 041476
FILED AUGUST 3, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on May 6, 2004. The hearing officer determined that: (1) the appellant (claimant) did not sustain a compensable injury in the form of an occupational disease; (2) the date of injury (DOI) is _____; (3) the respondent (carrier) is relieved from liability for the claimed injury under Section 409.002, because the claimant failed to timely notify her employer of an injury, without good cause, as required by Section 409.001; (4) the carrier is relieved from liability pursuant to Section 409.004, because the claimant failed to timely file an Employee's Notice of Injury or Occupational Disease and Claim for Compensation (TWCC-41) with the Texas Workers' Compensation Commission (Commission), without good cause, as required by Section 409.003; (5) the claimant does not have disability; and (6) the claimant is not barred from pursuing workers' compensation benefits because of an election to receive benefits under a group health insurance policy. The claimant appeals the injury, DOI, notice, claim for compensation, and disability determinations on sufficiency of the evidence grounds. The carrier urges affirmance. The hearing officer's election-of-remedies determination was not appealed and has become final. Section 410.169.

DECISION

Affirmed.

The hearing officer did not err in making the complained-of determinations. The determinations involved questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and, as the trier of fact, resolves the conflicts and inconsistencies in the evidence, including the medical evidence (Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ)). In view of the evidence presented, we cannot conclude that the hearing officer's determinations are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Nor can we conclude that the hearing officer abused his discretion in reaching his decision. Morrow v. H.E.B. Inc., 714 S.W.2d 297 (Tex. 1986).

The 1989 Act requires the existence of a compensable injury as a prerequisite to a finding of disability. Section 401.011(16). Because we have affirmed the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm the determination that she did not have disability.

The decision and order of the hearing officer are affirmed.

The true corporate name of the carrier is **OLD REPUBLIC INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
701 BRAZOS STREET, SUITE 1050
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Thomas A. Knapp
Appeals Judge

Robert W. Potts
Appeals Judge